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In re Application of :
THOMPSON et al. :
Application No.: 10/018,452 :
PCT No.: PCT/GB00/01679 :
Int. Filing Date: 02 May 2000 :
Priority Date: 30 April 1999 :
Attorney Docket No.: 28111/37903 :
For: SPECIFIC ANTIBODIES AND
ANTIBODY FRAGMENTS FOR TGFB1

DECISION ON PETITION

This decision is in response to applicants' "Communication Regarding Notice of Abandonment" filed 16 July 2004, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 02 May 2000, applicants filed international application PCT/GB00/01679 which claimed a priority date of 30 April 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 November 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 October 2001.

On 30 October 2001, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 16 October 2002, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 01 July 2004, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 16 October 2002 within the time period set therein.

On 16 July 2004, applicants filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 25 October 2002; post card receipt for application no. 10/184,452 dated 25 October 2002; and fee transmittal form for application no. 10/184,452.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant; docket number; and the title of invention. The receipt itemizes, *inter alia*: a check in the amount of \$130 and a Declaration for Patent Application. The receipt is stamped "Rec'd. PCT/PTO 25 OCT 2002" across its face. A review of the papers filed 25 October 2002 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/018,452.

The transmittal letter, executed declaration, and \$130 check filed on 25 October 2002 have been removed from application number 10/184,452 and placed in application folder number 10/084,452.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The declaration and power of attorney filed 25 October 2002 was a timely response to the Notification of Missing Requirements mailed 16 October 2002.

This application will be given an international filing date of 02 May 2000 and a date of **25 October 2002** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.


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